

AMENDMENT TO THE DRAWINGS:

Amended versions of FIGS. 5 and 7 are attached. In the amended versions, the Japanese labels have been amended, being translated into English.

Furthermore new set of FIGS. 1-8, which are not mounted and believed to be in compliance with 37 CFR 1.84(e), are attached.

REMARKS

Claim 1 and the specification are amended herein.

Figures 5 and 7 are amended herein and formal copies of FIGS. 1-8 are submitted with this Amendment.

Applicants respectfully assert that no new matter has been added.

The disclosure is objected to under 35 CFR 1.163(a) and under 35 U.S.C. §112, first paragraph, because the specification presents less than a full, clear, and complete botanical description of the plant and the characteristics which define same per se and which distinguish the plant from related known cultivars and antecedents. (Office Action p.4)

The objections to the disclosure and the claim are overcome by the amendments to the disclosure and the claim, as detailed below.

A. The disclosure is objected to under 37 CFR 1.121(e) because the Latin name of the genus and species of the claimed plant and Variety Denomination of the claimed plant should be preceded by a heading as set forth in 37 CFR 1.163(c)(4)(5) and 37 CFR 1.163(d). This information should be set forth before the "SPECIFICATION" section as set forth in 37 CFR 1.163(c).

The Latin name has been inserted accordingly.

B. Page 1, line 5, Applicants should delete "SPECIFICATION" as no specific heading is necessary and it is understood that what follows is the specification.

The "SPECIFICATION" heading has been deleted.

C. Page 1, line 8, throughout the specification, Claim, and abstract, single quotation marks should be placed around the cultivar name "Hokuto Shiro Ichigoukin" and any other cultivar

name as this is the proper way to denote a cultivar name.

The specification has been amended to place plant variety names in quotation marks.

D. Page 1, line 12, Applicants should either italicize or underline "Hypsizygus marumoreus" as this is the proper way to set forth a Genus and species.

The Latin names in the specification have been italicized.

E. Page 1, lines 17 and 18, Applicants state "female" and "male". Typically when referring to mushroom strains one strain is denoted as positive, +, and the other is denoted as negative, -. Mushroom strains do not really have a gender. Rather than stating "female" and "male", applicants should state either "+" or "-" for the appropriate cultivar strain.

The specification has been amended on page 1 as suggested by the Examiner.

F. Page 2, lines 1-8, Applicants state a character test was started. However, this recitation does not set forth what type of asexual reproduction method was used to asexually reproduce the instant cultivar. Applicants should set forth in the specification the method used to asexually reproduce the instant plant (MPEP 1605).

The original specification indicated on pages 1-2 that primary hyphae were obtained from mutated "Hokuto Hachigoukin" and "Hokuto Jyunigoukin" and these were used to obtain crossbred strains. The specification has been amended on page 2 to insert additional details regarding the cultivation of the hyphae.

G. Page 2, lines 21 and 22, Applicants state shape of stipe is "moderately thick". "Moderately thick" does not describe a shape it describes a size. Applicants should set forth an

accurate shape for the instant plant's stipe.

A Reference Table, showing dimensions of typical plant samples of "Hokuto Shiro Ichigoukin" of the invention and the parent plant varieties, "Hokuto Hachigoukin" and "Hokuto Jyunigoukin" and comparison variety "Miyuki M-8171" has been added.

H. Page 2, lines 29 and 30, Applicants state the photograph shows the instant plant. However, when compared to the photographic illustration provided there is a designation of "00HM069" set forth. It is not understood what this designation represents. It is unclear if applicants have intended this to be a different testing designation of different plant. Information relative to the designation shown should be set forth in the specification. Correction and/or clarification is necessary.

The Examiner refers to the designation "00HM069" in Fig. 1. This is a test number assigned at Hokuto Sangyo Co., Ltd., before assigning a cultivar name. As indicated in the Brief Description of the Drawings, Fig. 1 is a photograph of the present variety, that is, "Hokuto Shiro Ichigoukin". The specification has been amended to explain this point.

I. Page 3, lines 3 and 4, Applicants state the photographs show a culture the instant plant. However, when compared to the photographic illustration provided there is a designation of "MH025220" set forth. It is not understood what this designation represents. It is unclear if applicants have intended this to be a different testing designation or different plant. Information relative to the designation shown should be set forth in the specification. Correction and/or clarification is necessary.

The Examiner refers to the designation MH025220 in Figs. 4A and 4B. The specification has been amended to explain that this is an internal designation for the stock culture of present invention, "Hokuto Shiro Ichigoukin. "

J. Page 3, lines 5 and 6, Applicants state the photograph shows a parent plant. However, when compared to the photographic illustrations provided there is a Japanese designation set forth. It is not understood what this designation represents. It is unclear if this Japanese designation refers to the parent plant or a different plant. Information relative to the designation shown should be set forth in the specification. Correction and/or clarification is necessary.

The Examiner refers to the designation in Fig. 5. In amended Fig. 5, the Japanese designation has been translated to “Hokuto Hachigoukin”, consistent with the Brief Description of the Drawing.

K. Page 3, lines 7 and 8, Applicants state the photographs show a culture of a parent plant. However, when compared to the photographic illustrations provided there are two designations “MH025220” and “MH025019” set forth. It is not understood what these designations represent. It is unclear if applicants have intended these to be different testing designations or a different plant other than the parent stated or two different plants. Information relative to the designation shown should be set forth in the specification. Correction and/or clarification is necessary.

The Examiner refers to the designations MH025220 and MH025019 in Figs. 6A and 6B. The specification has been amended to indicate that these are stock culture designations corresponding to “Hokuto Shiro Ichigoukin” and “Hokuto Hachigoukin”, respectively.

L. Page 3, lines 9 and 10, Applicants state the photograph shows a parent plant. However, when compared to the photographic illustrations provided there is a Japanese designation along with a letter/number designation set forth. It is not understood what this designation represents. It is unclear if this Japanese and letter/number designation refers to a parent plant or a different plant. Information relative to the designation shown should be set forth in the specification. Correction and/or clarification is necessary.

The Examiner refers to Fig. 7. In the amended Fig. 7, the Japanese on the label has been translated, and the label now reads “Miyuki M-8171”, consistent with the Brief Description of the

Drawing.

M. Page 3, lines 9-15, Applicants state another parent plant variety "Miyuki M-8171". However, applicants have previously stated "Hokuto Hachigoukin" and "Hokuto Jyunigoukin" are the parent cultivars on page 1, line 16. Correction and/or clarification is necessary.

Reconsideration of the objection is respectfully requested. The Examiner refers to the Brief Description of Figs. 7-9. The Examiner is correct that "Hokuto Hachigoukin" and "Hokuto Jyunigoukin" are crossbred to produce the present invention. However, "Hokuto Jyunigoukin" does not appear in Figs. 7-9. In Fig. 7, another variety, "Miyuki M-8171" is shown, as indicated in the Brief Description of the Drawings, for comparison to the present invention. "Miyuki M-8171" is discussed in the specification.

N. Page 3, lines 11 and 12, Applicants state the photographs show a culture of a parent plant. However, when compared to the photographic illustrations provided there are two designations "MH025220" and "MH025066" set forth. It is not understood what these designations represent. It is unclear if applicants have intended these to be different testing designations or a different plant other than the parent stated or two different plants. Information relative to the designation shown should be set forth in the specification. Correction and/or clarification is necessary.

The Examiner refers to the designations MH025220 and MH025066 in Figs. 8A and 8B. The specification has been amended to indicate that these are stock culture designations corresponding to "Hokuto Shiro Ichigoukin" and "Miyuki M-8171", respectively.

O. Page 3, line 17, Applicants should set forth in the specification a brief comparison between the instant plant and its parent, "Hokuto Jyunigoukin". Such need not be in any great

detail but should at least distinguish the cultivars from each other.

Such description has been added to the specification.

P. Applicants are requested to set forth in the specification whether the parental cultivars have been patented in the United States, is currently the subject of a pending U.S. Plant Patent application, or unpatented. If patented, -- (U.S. Plant Patent No.)-- should be inserted after the cultivar name. If the subject of a pending application, such should be referred to by serial number. If unpatented, -- (unpatented)-- should be inserted after the appropriate cultivar name.

The parental varieties are unpatented in the United States and the appropriate designation has been made in the specification.

Q. Page 4, lines 10-12, Applicants state diameter ratio of "1.59", "1.6-1.8", "2.1", and "1.5-2.0". However, ratios are usually stated as 1 to 2 or 1:2 for example. It appears the recitations set forth are actual measurements. Correction and/or clarification is necessary.

The Reference Table added to the specification lists ratios which correspond to the above ratios making the recitations set forth understood.

R. Page 6, Table 5, line 16, Applicants state Cap "Size". It is uncertain whether the size set forth is for the diameter of depth of the cap. Applicants should set forth in the specification the typical and observed cap diameter and depth.

The specification has been amended to clarify that "cap size" is the same as "cap diameter", and that "meat thickness" is the same as "cap depth".

S. Applicants must set forth in the specification the recognized color dictionary which is used for setting forth color designations for the instant plants distinguishing characteristics (MPEP 1605).

The color designations are based on the Japan Color Standard for Horticultural Plant (JHS Color Chart). The code numbers mentioned in the column "Code of the similar variety" in Table 6 are based on color codes stipulated by JIS (Japanese Industrial Standard).

Because these standards are publicly available, reconsideration of the objection is respectfully requested.

S. Page 6, Table 5, lines 18-21, Applicants should set forth in the specification a color designation for the "White" colorations with reference to a recognized color dictionary. The recitations "White" are vague and insufficient in this regard.

The color designations are based on the Japan Color Standard for Horticultural Plant (JHS Color Chart).

Because this standard is publicly available, reconsideration of the objection is respectfully requested.

T. Page 6, Table 5, lines 24 and 25, Applicants should set forth in the specification the typical and observed mottled spot quantity and diameter. The recitations "Medium" are vague and insufficient in this regard.

Evaluations like the words "medium" are based on the standards stipulated by the Agriculture Forestry and Fisheries Ministry of Japan, under which strains may be evaluated with the eye.

Because this standard is publicly available, reconsideration of the objection is respectfully requested.

V. Page 6, Table 5, lines 30 and 31, Applicants should set forth in the specification a color designation for the "Yellowish white" coloration with reference to a recognized color dictionary.

The recitation “Yellowish white” is vague and insufficient in this regard.

The color designations are based on the Japan Color Standard for Horticultural Plant (JHS Color Chart).

Because this standard is publicly available, reconsideration of the objection is respectfully requested.

W. Page 6, Table 5, lines 33 and 34, Applicants should set forth in the specification the typical and observed gill number per mushroom, gill depth and width. The recitations “Medium” are vague and insufficient in this regard.

Evaluations like the words “medium” are based on the standards stipulated by the Agriculture Forestry and Fisheries Ministry of Japan, under which strains may be evaluated with the eye.

Because this standard is publicly available, reconsideration of the objection is respectfully requested.

X. Page 6, Table 5, lines 35 and 36, Applicants state “Stipe Length (mm)” but do not set forth any dimension. Applicants should set forth in the specification the typical and observed stipe length and diameter.

Stipe length has been set forth as suggested by the Examiner.

Y. Page 7, Table 5, line 1, Applicants state stipe shape is “Medium thick”. Medium thick is not a shape but a thickness. Applicants should set forth in the specification the typical and observed stipe shape.

Observed stipe shape has been set forth as suggested by the Examiner.

Z. Page 7, Table 5, line 2, Applicants should set forth in the specification a color designation for the "White" coloration with reference to a recognized color dictionary. The recitation "White" is vague and insufficient in this regard.

The color designations are based on the Japan Color Standard for Horticultural Plant (JHS Color Chart).

Because this standard is publicly available, reconsideration of the objection is respectfully requested.

AA. Page 7, Table 5, lines 4-6, Applicants state "Diameter under cap to maximum diameter ratio" and "Cap diameter to stipe length ratio" but do not set forth any information. Correction and/or clarification is necessary.

These entries in Table 5 have been amended, and the data included.

AB. Page 10, the Claim, The Claim should be directed to the plant as illustrated "and" described (MPEP 1605, 37 CFR 1.164). The following Claim is suggested --A new and distinct variety of Bunashimeji mushroom plant as illustrated and described.—

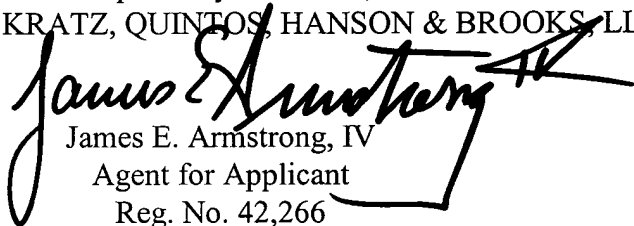
The claim has been amended as suggested by the Examiner.

In view of the aforementioned amendments and accompanying remarks, claim 1, as amended (in accordance with the Examiner's request), is believed to be in condition for allowance, which action, at an early date, is requested.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact Applicant's undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,
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Substitute Specification

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